

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
MISSOULA DIVISION

**FILED**

AUG 05 2013

Clerk, U.S. District Court  
District Of Montana  
Missoula

CHAD A. MYERS and EMILY J.  
MYERS,

Plaintiffs,

vs.

BAC HOME LOANS SERVICING LP,  
BANK OF AMERICA N.A., AMERICA  
WHOLESALE LENDERS INC.,  
COUNTRYWIDE HOME LOANS  
SERVICING LP, MORTGAGE  
ELECTRONIC REGISTRATION  
SYSTEMS INC., RECONTRUST  
COMPANY N.A.,

Defendants.

CV 13-53-M-DWM-JCL

ORDER

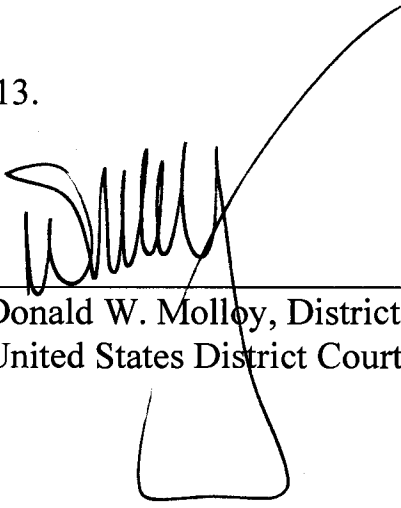
The defendants move under Federal Rule of Civil Procedure 55(c) to set aside the default entered against them. Magistrate Judge Lynch recommends granting the motion. The Court agrees and orders the default set aside.

The plaintiffs had 14 days to file objections to Judge Lynch's Findings and Recommendation. They did not do so. So the Court reviews the Findings and Recommendation for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981).

The Court finds no clear error and adopts the Findings and Recommendation in full. The defendants do not provide any reason or excuse for their untimely appearance in this case. But the default should nonetheless be set aside because the defendants have met their burden of showing that they have a potentially meritorious defense and that setting aside the default will not prejudice the plaintiffs. They have therefore established good cause to set aside the entry of default. *See* Fed. R. Civ. P. 55(c).

IT IS ORDERED that the defendants' motion to set aside the entry of default (doc. 19) is GRANTED. The Clerk of Court's entry of default (doc. 10) is SET ASIDE.

Dated this 5<sup>th</sup> day of August 2013.



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Donald W. Molloy, District Judge  
United States District Court